

1 Robert C. Ryan (NSBN 7164)
2 Timothy A. Lukas (NSBN 4678)
3 Joshua M. Halen (NSBN 13885)
4 HOLLAND & HART LLP
5 5441 Kietzke Lane, Second Floor
6 Reno, Nevada 89511
7 Tel.: (775) 327-3042 / Fax: (775) 786-6179
8 rcryan@hollandhart.com
9 tlukas@hollandhart.com
10 jmhalen@hollandhart.com

11 Adam Hosmer Henner (NSBN 12779)
12 Phil Mannelly (NSBN 14236)
13 MCDONALD CARANO LLP
14 100 W. Liberty Street, Tenth Floor
15 Reno, NV 89501
16 Telephone: (775) 788-2000
17 ahosmerhenner@mcdonaldcarano.com
18 pmannelly@mcdonaldcarano.com

19 *Attorneys for Defendants CHEMEON Surface*
20 *Technology, LLC, Dean Meiling, Madylon Meiling,*
21 *DSM Partners, LP, DSM P GP LLC, and Suite B LLC*

22 **IN THE UNITED STATES DISTRICT COURT**
23 **DISTRICT OF NEVADA**

24 SUSAN BAKER, ET AL.,
25
26 Plaintiffs,
27
28 v.
29 DEAN MEILING, et al.,
30 Defendants.

Case No.: 3:20-cv-00518-MMD-CLB

MOTION FOR EXTENSION OF TIME
TO FILE THE JOINT SCHEDULING
ORDER
(First Request)

31
32 Counterclaimant CHEMEON Surface Technology, LLC (“CHEMEON”), by and
33 through its counsel, files this Motion for Extension of Time to File the Joint Scheduling Order,
34 pursuant to Fed. R. Civ. P. 6 and LR IA 6-1.
35
36
37
38

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

I. LAW & ARGUMENT

On March 29, 2021, this Court lifted the Stay it had entered pending Plaintiffs’ unsuccessful appeal to the Ninth Circuit Court of Appeals, reinstated the previously filed Motions for Judgment on the Pleadings, and ordered the parties to file a Joint Scheduling Order pursuant to LR 16-1 on or before April 28, 2021. (ECF No. 131.) Plaintiffs’ counsel made no attempt to contact Defendants’ counsel to discuss the joint scheduling order, despite it generally being a plaintiff’s responsibility to coordinate the drafting and filing of a joint scheduling order. This afternoon, April 28, 2021, the Court entered its Order granting Defendants’ Motion for Judgment on the Pleadings, dismissing Plaintiffs’ Complaint with Prejudice. (ECF No. 137.) Pending before the Court remains CHEMEON’s Counterclaim. (ECF No. 16.) CHEMEON seeks a brief extension of time of the deadline for the filing of a joint scheduling order to weigh its options regarding its Counterclaim in light of the dismissal with prejudice of Plaintiffs’ Complaint.

Federal Rule of Civil Procedure 6(b)(1) governs enlargements of time and provides: When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

The proper procedure, when additional time for any purpose is needed, is to present a request for extension of time before the time fixed has expired. *Canup v. Miss. Val. Barge Line Co.*, 31 F.R.D. 282 (W.D. Pa. 1962). Extensions of time may always be asked for, and usually are granted on a showing of good cause if timely made under subdivision (b)(1) of the Rule. *Creedon v. Taubman*, 8 F.R.D. 268 (N.D. Ohio 1947).

In view of the Court's dismissal with prejudice of Plaintiffs' Complaint this afternoon, CHEMEON's Counterclaim is the only claim pending before the Court. CHEMEON requests additional time to consider its options, including whether to proceed with its Counterclaim. Should CHEMEON decide not to proceed with its Counterclaim, a scheduling order will be unnecessary as there will be no claims pending before the Court. This extension of time will

1 thus give CHEMEON adequate time to assess its options and possibly save the Court and
2 parties from expanding time and recourses on a scheduling order that may be unnecessary.

3 CHEMEON would normally request a stipulated extension and file the same with the
4 Court, but given the Court issuing its Order this afternoon, CHEMEON has deemed it necessary
5 to file this Motion. This Motion is made in good faith and is not for the purpose of delay.


6 **II. CONCLUSION**

7 Based on the foregoing, CHEMEON respectfully requests this Motion for Enlargement
8 of Time be granted and the deadline for filing a joint scheduling order be extended seven days,
9 until May 5, 2021.

10 DATED this 28th day of April, 2021.

11
12
13 IT IS SO ORDERED.

14 Dated: April 29, 2021

15
16 
17 UNITED STATES MAGISTRATE JUDGE

HOLLAND & HART LLP

/s/ Robert C. Ryan

Robert C. Ryan (SBN 7164)
Timothy A. Lukas (SBN 4678)
Joshua M. Halen (SBN 13885)
5441 Kietzke Lane, Second Floor
Reno, Nevada 89511
T: (775) 327-3042

MCDONALD CARANO LLP
Adam Hosmer Henner (SBN 12779)
Phil Mannelly (SBN 14236)
100 W. Liberty Street, Tenth Floor
Reno, Nevada 89501
T: (775) 788-2000

*Attorneys for Defendants CHEMEON
Surface Technology, LLC, Dean Meiling,
Madylon Meiling, DSM Partners, LP, DSM
P GP LLC, and Suite B LLC*

18
19
20
21
22
23
24
25 16645144
26
27
28